

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Case No. 4:11CR246 CDP
)
)
JAMES C. SMITH,(1))
DOMINIC HENLEY(4),)
ANTHONY ROBINSON(11), and)
JERRY ELKINS(12),)
)
Defendants.)

ORDER

This matter is before the Court on the above listed defendants' motions to suppress evidence obtained by the government through the use of court authorized electronic surveillance. As with the other pretrial motions in this case, these motions were referred to United States Magistrate Judge Frederick R. Buckles under 28 U.S.C. § 636(b). Judge Buckles received briefs and heard evidence related to the motions. He then filed his Report and Recommendation recommending that the motions be denied. Each defendant has filed objections to Judge Buckles' recommended disposition.

I have conducted a *de novo* review of the motions, including reviewing all briefs, reading the transcript of the hearing, and reviewing the wiretap applications

and orders. After doing so, I conclude that the interceptions were lawfully authorized under the provisions of the statute, 18 U.S.C. § 2518. The applications contained a sufficient basis for the issuing judge to conclude that the statutory requirements were met, including the requirement of showing that other investigative techniques either have been tried and failed or reasonably appear to be unlikely to succeed.. Additionally, the evidence showed that the minimization techniques used were appropriate. I will therefore adopt the factual findings, the reasoning, and the legal conclusions reached by Judge Buckles.

Defendants also argue that the location of the “listening post” in this judicial district is not sufficient to confer jurisdiction for issuance of Title III orders over phones not located in this jurisdiction. This is an issue of law that Judge Buckles analyzed in detail. I have carefully reviewed the law relevant to this issue and believe that Judge Buckles’ analysis was entirely correct, and so I will adopt it as my own.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge [#1023] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendants' motions to suppress evidence obtained through electronic surveillance [## 419, 435, 452, 518, and 628] are denied.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 15th day of October, 2012.